



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 30, 1994

Mr. Anthony C. Grigsby
Executive Director
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

OR94-809

Dear Mr. Grigsby:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 26927.

The Texas Natural Resource Conservation Commission ("TNRCC") received a request for information concerning a complaint against the City of Nederland. You claim the requested information is excepted from required public disclosure under the informer's privilege as incorporated by section 552.101 of the Government Code.

Section 552.303 of the Government Code requires that a governmental body seeking an open records determination from this office to supply for our review the specific information in question. *See* Open Records Decision Nos. 499 at 6 (if documents are numerous and repetitive, governmental body should submit representative sample, but if each contains substantially different information, all must be submitted), 497 at 4 (fact that submitting copies for review to attorney general may be burdensome does not relieve governmental body of responsibility of doing so) (1988); 197 (1978) at 1-2 (when governmental body refuses to furnish information to attorney general, there is presumption that information is public). We notified TNRCC August 24, 1994, that the records at issue needed to be submitted for our review. To date, no records have been sent by TNRCC. Although a governmental body may not release information that is deemed confidential under section 552.101, the informer's privilege aspect of section 552.101 is waivable by a governmental body. Open Records Decision No. 549 (1990).

Accordingly, TNRCC has waived the informer's privilege by failing to submit the requested records to this office. The records must be released in their entirety unless TNRCC can show compelling reasons, such as, confidentiality under another source of law or third party privacy interests. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Margaret A. Roll". The signature is written in a cursive, flowing style.

Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/LBC/rho

Ref.: ID# 26927

cc: Mr. Steve Hamilton
Director of Public Works
City of Nederland
P.O. Box 967
Nederland, Texas 77627